Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 2273-3F.

DATED 5th May.

[Despatch Abstract.]

Stating that the question raised by the Examiner of Railway account in regard to the liability of income tax of certain salaries paid in England to Railway employés on leave will be submitted for the orders of the Govt of India.

Letter

Submitting for orders certain questions connected with the liability to income tax of the salaries paid by Railway Companies in India to their employés on leave in England

BACK PAPERS.

G O	No	Department.	Date.	G.O	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G O	No.	Department.	Date.

Revenue (1897) Department.

CURRENT No. 3130

GOVERNMENT OF MADRAS REVENUE DEPARTMENT 10 APR 97

The Hon: Mr Bliss C.I.E.

From 4
The Secretary to the Commissioner of Salt, Abkari & Separate Revenue
Madras

Order Mise

Mis No. 1348

The Govt agrees with the Board of Rev: and the Madras Railway Board will be informed accordingly in the Public Works Dept

Dated 3rd April 1897

Received

Registered

Enclosures

Spare copies

Abstract

SUBJECT.

Expressing the Board's opinion on the question of levying income tax on the allowances of officers of a Railway Company on leave in England (1) if they are remitted by the Company's Agent at the risk of officers and (2) if they are paid to them in England by the sale of a bill drawn on the Company's agent by the Board in London.

To

The P.W.D with ques ref

.. Board of Rev Sep Rev: No 6

The facts are correctly stated in the B.P. and the Board's views seem, it is submitted to be correct.

BPM
31.10.97

BACK PAPERS.

G.O.	No.	Department.	Date.
"	1238	Rev.	5-3-97
"	2687	Rev.	15-5-97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

REVENUE BOARD OFFICE MADRAS.

Proceedings of the Board of Revenue

(Separate Revenue.)

Dated 3rd April 1897.

Mis No. 1348

Read Government order Mis No. 1238 Revenue dated 5th March

Resolution.

In his letter No 87 dated 17th February 1897, the Examiner, Guaranteed Railway accounts, Madras requests orders regarding the levy of income tax in the following cases:—

(1) When the officers and other employés of a Railway Company who go on leave out of India authorise the Company's agent to remit their allowances at their risk

(11) When such officers receive the allowances by asking the Board to draw on the agent of the Company by selling a bill in London

The Board considers that as the allowances in the first case are remitted at the risk of the officers, they must be held to be

be received in British India and so liable to tax. In the 2nd case, the allowances received by the officers on leave are not liable to incometax under the ruling of the Government of India communicated in Government Order mis No 2689 Revenue dated 18th May 1887.

(True Extract).

Edmund Hallett

Assistant Secretary.

To

The Secretary to Government

Revenue Department

with 2 Enclosures returned

Ld
Sdt
9.9.97

Note

It was thought unnecessary to put up No 1733 of 31st March 1897 and connected papers because they had mainly reference to the income of persons resident in British India at the time of assessment.

BMM

D/4 1,000—20-2-96.

REVENUE DEPARTMENT.

C. No. 3132

From

The Hon'ble Mr Bliss C.I.E. Dated 189 .

FOR ORDERS.

H.E. the Govr in approval of the draft letter to the Govt of India

Mc 30.12.97

1/5/97.

It appears that Agents of the Madras Ry going on leave to England can draw their leave allces in 3 ways.

(1.) By authorising the Company's Agent & manager to make over their pay to agents in India

(2.) By authorising the Company's Agent to remit at the risk of the officers concerned

(3.) By asking the Ry Board to draw on the agent of the Company by selling a bill in London.

The Exams of Ry accts Madras asks whether Indian Income tax is leviable on allowances paid by methods (2) & (3) above. He thinks it is leviable as the allowances are payable

C27.4.97.

R.C 3/5/97

in India but are for the convenience of the employés remitted in the manner stated for payment in England.

The question was referred to the Board of Rev for its views.

The Board considers that in the first case vs. (2) as the remittances are made at the risk of the Officers they must be held to be received in British India & taxable there. In the 2nd case vs. (3) the allowances received by the Officers on leave, says the Board, are not liable to income tax under the ruling† of the Govt of India communicated in G.O. min No 2689 Rev dated 10th May 1887

It is submitted that, Selling a bill being only a particular form of making a remittance, it does not appear why in the 2nd case also the allowances should not be deemed to have been received in British India & therefore taxable there.

Apart from the question of receipt the amounts are, I submit, liable to tax as income under part IV, "Other Sources", since they accrue & arise in British India even though they are paid in England.

In G.O. No 152 dated 10th Feb 1887† it was decided after consulting the Advocate-Genl that the salary earned for work done in India but paid in England and not remitted, including the person earning the salary being in British India, is "income" under the act and is taxable under Part IV.

In G.O. No 1014 Rev dated 20th December 1889 there a similar decision† of the Govt of India is found.

Flagged A.

Flagged B.

Flagged C.

I think this view is correct.

With G.O. No 4360 dated 5th Nov 1896 however is found a letter from the Secretary of State enclosing a list of persons who residing in India draw their pay or pensions in England thro' an agent stating that the Sec of State is advised that the pay or pensions being received in England are not liable to Indian Income tax but, if remitted to India, they may become liable to tax under "Other Sources".

Hayward.

The ruling of the Secretary of State being opposed that issued by this Govt on 7th Feb 1887 & to that issued by the Govt of India in 1889, this Govt addressed the Govt of India on the subject pointing out that the Secretary of State referred apparently only to retired pay or pension. The reply has not yet been received. In all the above cases the parties concerned

Hay B.

Hay C.

+ Hay E

been resident in British India.

Hay F

In G.O. No 335 Rev 16th July 97 Govt decided that fees paid to Travancore residents of Travancore for work done for the Madras University etc are liable to tax under part IV since they accrue and arise in British India. It was also decided that tax could recovered in case of default only by proceeding against the property, if any, of the defaulter in British India & not otherwise and that it was immaterial whether the work for which the fees were paid was actually done in British India or out of it.

This last ruling would seem to cover cases (2) & (3) under consideration were it not for the existence of the ruling of the Govt of India of April 1887 unless the latter ruling is held to

Hay A

apply only in those cases where officers are as a matter of right entitled to draw their leave allowances in England, in which case the allowance may be said to accrue in England. In the cases under consideration the leave allowances are, as pointed out by the Examiner paysable in India and are remitted to England only to serve the convenience of the officers concerned.

The questions now raised being somewhat different from those referred to in Mr Scott's letter dated 7th May E 31st March 1897 it is submitted that they may be referred to the Govt of India in continuation of that letter. A draft letter & G.O. are submitted for approval

Ulle 23.4.97 Wyatt 5/97.

REVENUE DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

G.O. 1228 5.5.97. Read Chos 1818 & 3132

570

G.O. No 1733 Rev. dated 31st March 1897.

The questions raised by the Examiner of Ry accts will be submitted for the orders of the Govt of India in continuation of G.O. last No 1733 Rev dated 31st March 1897

Ulle 23.4.97 Wyatt 5/97.

G.O. No 2273A.

To the Secy to the Govt of India 12/5/97 Fncl & Commce Dept

Sir

In continuation of my letter No 1734 dated 31st March 1897 I am directed to submit the following matter for the orders of the Govt of India.

2 The allowances of Officers of the Madras Railway on leave in England are

payable in India, but to suit the convenience of the Officers concerned, they are permitted to draw their allowances in three ways, viz:-

(i) By authorising the Company's Agent and Manager to make over their allowances to agents in India;

(ii) By authorising the Company's Agent to remit at the risk of the Officers concerned;

(iii) By asking the Ry Board to draw on the Agent of the Company by selling a bill in London.

3. I am to enquire whether income tax is leviable on sums paid by either the second or the third of the methods above specified.

4. In both cases, the amounts being remitted to England at the officer's request, it is a question whether they may not be considered to have been constructively received in British India and therefore to be held liable to tax.

5. Apart from the question of place of receipt it is doubtful whether the allowances may be held to accrue and arise in British India, and are not therefore on that account liable to tax.

6. In this connection I am to refer to the decision ruling of the Govt of India contained in Mr Westland's letter No 2101 dated 28th April 1887 to the Accountant General Bengal, and to enquire whether that decision is to be held to apply to all payments of leave allowances in the United Kingdom to officers on leave there or, as the second para of that letter

would seem to imply, ~~that~~ to the payment of ~~them~~ such allowances only ~~which~~ as the officers on leave are entitled to receive in the United Kingdom.

7. In the opinion of this Govt leave allowances ordinarily payable in British India must be held to be income accruing & arising in British India, and the circumstance that such allowances are credited to the officers concerned in England cannot be held to exempt such allowances from taxation under Act II of 1886.

Mly 28.4.97

W 26/4/97.

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READ AGAIN G.O., No. DATED
189 ,

G. ENF No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A
LETTER OF GOVERNMENT					Q		
STATEMENTS WITH DITTO							
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